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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/892,409	06/28/2001	Hiroyuki Takahara	35.G2296 D1	2813
5514	7590	10/02/2003	EXAMINER	
FITZPATRICK CELLA HARPER & SCINTO 30 ROCKEFELLER PLAZA NEW YORK, NY 10112			BROWN, KHALED	
			ART UNIT	PAPER NUMBER
			2877	

DATE MAILED: 10/02/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/892,409	TAKAHARA, HIROYUKI
	Examiner Khaled Brown	Art Unit 2877
-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --		
Period for Reply		
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.		
<ul style="list-style-type: none"> - Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication. - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely. - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication. - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). - Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b). 		
Status		
<p>1)<input checked="" type="checkbox"/> Responsive to communication(s) filed on <u>11 September 2003</u>.</p> <p>2a)<input type="checkbox"/> This action is FINAL. 2b)<input checked="" type="checkbox"/> This action is non-final.</p> <p>3)<input type="checkbox"/> Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i>, 1935 C.D. 11, 453 O.G. 213.</p>		
Disposition of Claims		
<p>4)<input checked="" type="checkbox"/> Claim(s) <u>11,12 and 14-22</u> is/are pending in the application.</p> <p>4a) Of the above claim(s) _____ is/are withdrawn from consideration.</p> <p>5)<input checked="" type="checkbox"/> Claim(s) <u>11,12,14,21 and 22</u> is/are allowed.</p> <p>6)<input checked="" type="checkbox"/> Claim(s) <u>15-20</u> is/are rejected.</p> <p>7)<input type="checkbox"/> Claim(s) _____ is/are objected to.</p> <p>8)<input type="checkbox"/> Claim(s) _____ are subject to restriction and/or election requirement.</p>		
Application Papers		
<p>9)<input type="checkbox"/> The specification is objected to by the Examiner.</p> <p>10)<input checked="" type="checkbox"/> The drawing(s) filed on <u>28 June 2001</u> is/are: a)<input checked="" type="checkbox"/> accepted or b)<input type="checkbox"/> objected to by the Examiner.</p> <p style="margin-left: 20px;">Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).</p>		
<p>11)<input type="checkbox"/> The proposed drawing correction filed on _____ is: a)<input type="checkbox"/> approved b)<input type="checkbox"/> disapproved by the Examiner.</p> <p style="margin-left: 20px;">If approved, corrected drawings are required in reply to this Office action.</p> <p>12)<input type="checkbox"/> The oath or declaration is objected to by the Examiner.</p>		
Priority under 35 U.S.C. §§ 119 and 120		
<p>13)<input checked="" type="checkbox"/> Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).</p> <p>a)<input checked="" type="checkbox"/> All b)<input type="checkbox"/> Some * c)<input type="checkbox"/> None of:</p> <p>1.<input type="checkbox"/> Certified copies of the priority documents have been received.</p> <p>2.<input checked="" type="checkbox"/> Certified copies of the priority documents have been received in Application No. <u>09/203,510</u>.</p> <p>3.<input type="checkbox"/> Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).</p>		
<p>* See the attached detailed Office action for a list of the certified copies not received.</p> <p>14)<input type="checkbox"/> Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).</p> <p>a)<input type="checkbox"/> The translation of the foreign language provisional application has been received.</p>		
<p>15)<input type="checkbox"/> Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.</p>		
Attachment(s)		
<p>1)<input checked="" type="checkbox"/> Notice of References Cited (PTO-892)</p> <p>2)<input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)</p> <p>3)<input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .</p> <p>4)<input type="checkbox"/> Interview Summary (PTO-413) Paper No(s) _____ .</p> <p>5)<input type="checkbox"/> Notice of Informal Patent Application (PTO-152)</p> <p>6)<input type="checkbox"/> Other: _____ .</p>		

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 9-11-03 has been entered.

The examiner would like to point out that the Attorney Registration number 24613 for John A. Krause, who signed the most recent submission from applicant, is currently showing as INACTIVE according to Patent Office Records. If this is in error, please contact the Patent Office and have the status changed as appropriate.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

- (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 15-20 are still rejected under 35 U.S.C. 103(a) as being unpatentable over Sun et al (US 6072602) in view of Alexander (US 4444318).

Re clms 15-17: Sun et al discloses an image reader (Sun et al Fig 1A) comprising: a transparent plate adapted to contact an original (Sun et al "sheet"), an image sensor unit including a light, a reading element (Sun et al Col 1 lines 17-19), and a housing (Sun et al 102) , a holding member (Sun et al 1023) and a motor (Sun et al 1093), wherein said housing has integrally formed therewith a spacer/slider (Sun et al 103) wherein the image sensor unit is driven in a perpendicular direction. However, Sun et al does not disclose the manner of attachment of the spacer. Alexander teaches that a spacer can be mounted into a chassis or housing by means of a hole in the chassis or housing (Alexander Col 2 lines 34-39) because it permits joining elements in spaced relationship without the use of additional hardware or tools (Alexander Col 1 lines 20-22, 63). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to mount the spacer of Sun et al to the housing of Sun et al using a hole in the housing because it would reduce the amount of hardware or tools needed for assembly as taught by Alexander.

Re clm18: a biasing member (Sun et al 1022).

Re clm 19: a shaft (Sun et al 105)

Re clm 20: a bearing (Sun et al inherent, also shown in Fig 1B as part of element 102)

Claims 15-20 are still rejected under 35 U.S.C. 103(a) as being unpatentable over Sun et al (US 6072602) in view of Ternes (US 5592746).

Re clms 15-17: Sun et al discloses an image reader (Sun et al Fig 1A) comprising: a transparent plate adapted to contact an original (Sun et al "sheet"), an image sensor unit including a light, a reading element (Sun et al Col 1 lines 17-19), and a housing (Sun et al 102), a holding member (Sun et al 1023) and a motor (Sun et al 1093), wherein said housing has integrally formed therewith a spacer/slider (Sun et al 103) wherein the image sensor unit is driven in a perpendicular direction. However, Sun et al does not disclose the manner of attachment of the spacer. Ternes teaches that a spacer can be mounted into a chassis or housing by means of a hole in the chassis or housing (Ternes Fig 4) because it permits proper image registration (Ternes Col 3 line 15). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to mount the spacer of Sun et al to the housing of Sun et al using a hole in the housing because it would permit proper image registration as taught by Ternes.

Re clm18: a biasing member (Sun et al 1022).

Re clm 19: a shaft (Sun et al 105)

Re clm 20: a bearing (Sun et al inherent, also shown in Fig 1B as part of element 102)

Allowable Subject Matter

Claims 11,12,14,21 and 22 are allowed.

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The following is an examiner's statement of reasons for allowance: the prior art of record fails to disclose or suggest a holding member adapted to rotatably hold said image sensor unit in conjunction with the rest of the claimed subject matter.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Response to Arguments

The applicants arguments filed 9-11-03 have been considered but are not persuasive. The applicant argues that Sun et al does not disclose a housing having a hole with a spacer mounted therein or that the housing is movable relative to the original holding plate in a perpendicular direction (p.7 lines 13-15). In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Additionally, the combination system of Sun et al and Alexander does disclose a housing having a hole with a spacer mounted therein (Sun et al discloses a spacer 103 but does not give the details as to the manner in which that spacer is connected to its housing. Alexander teaches that one manner for connecting a spacer to its housing is by inserting the spacer into a hole as noted above and therefore suggests that the

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spacer disclosed in Sun et al could be attached to its housing in a similar manner i.e. by placing the spacer of Sun et al in a hole as the manner of attachment between the spacer and its housing which Sun et al discloses as being attached in some unknown manner.) and a housing movable relative to an original holding plate in a perpendicular direction is disclosed since the housing of Sun et al (Sun et al 102) scans along the holding plate (Sun et al 107) which means that the housing is movable relative to an original holding plate in a perpendicular direction.

The applicant also argues that the combination system of Sun et al and Alexander is improper allegedly because the combination of the two, would render Sun et al unsatisfactory for its intended use (p. 8 lines 10-13) particularly if the spacer of Alexander was substituted for the spacer of Sun et al in the apparatus of Sun et al. However, the examiner has not suggested that the spacer of Alexander be substituted for the spacer of Sun et al in the apparatus of Sun et al. Merely that the spacer disclosed in Sun et al be attached to its housing using the attachment method taught by Alexander as noted above. Sun et al discloses that the spacer need only use one end to attaché it to its housing and not both ends being attached as suggested by applicant.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khaled Brown whose telephone number is 703-306-5738. The examiner can normally be reached on M-F 8:30am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Frank G. Font can be reached on 703-308-4881. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1782.



KB

August 16, 2003

Frank Font
Supervisory Patent Examiner
Art Unit 2877